

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Simon BATES et al.)	Group Art Unit: 1797
)	
Application No.: 10/590,204)	Examiner: Bryan T. Kilpatrick
)	
§ 371 filing date: May 4, 2007)	Confirmation No.: 5565
)	
For: ANALYSIS AND SCREENING OF)	
SOLID FORMS USING THE)	
ATOMIC PAIR DISTRIBUTION)	
FUNCTION)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97(c)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicant brings to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Office Actions

In the SB/08 form returned to Applicants with the Office Action of November 19, 2009, the Examiner crossed-out item 4, the Office Action from U.S. Application No. 11/525,930, dated April 28, 2009. It is the undersigned's understanding that the cited Office Actions from the co-pending U.S. application are available to the Examiner through the PTO's Image File Wrapper system. Accordingly, copies of the Office Actions cited in the enclosed SB/08 form are not enclosed. See M.P.E.P. § 609.04.

Applicants are listing again the above-referenced Office Action from U.S. Application No. 11/525,930, dated April 28, 2009, for the Examiner's consideration. Copies of non-patent literature documents are enclosed.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner might meet the materiality standard under the amended Rule 56, and thus, Applicant should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicant is not representing that the Office Actions in related co-pending applications are material to the present application and is not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicant has listed the substantive office actions filed in a co-pending application on the attached SB/08 form.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.


This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 

Carlos M. Téllez
Reg. No. 48,638

Dated: July 26, 2010